

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Lorraine Post Office
Lorraine, New York

Docket No. A2011-101

ORDER AFFIRMING DETERMINATION

(Issued January 18, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012”.¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011 *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* Lastly, the Postal

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011 at 1 (Notice).

Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 29, 2011, Susan and Dean Paine (Petitioners) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Lorraine, New York post office (Lorraine post office).² The Final Determination to close the Lorraine post office is affirmed.

II. PROCEDURAL HISTORY

On October 4, 2011, the Commission established Docket No. A2011-101 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.³

On October 14, 2011, the Postal Service filed the Administrative Record with the Commission.⁴ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁵

² Petition for Review received from Susan and Dean Paine regarding the Lorraine, New York Post Office, Lorraine, New York, 13659, September 29, 2011 (Petition). The petition included copies of identical letters from additional customers of the Lorraine post office supporting the petition and proposing a compromise solution. Additional letters were also received later. Letter Received from April Haga and Tim Riley Regarding the Lorraine, NY Post Office, 13659, October 19, 2011. Petitioners also requested a waiver of the Commission’s online filing requirements. Letter Received from Susan and Dean Paine Requesting Waiver from Filing Online, October 19, 2011. That request is granted.

³ Order No.894, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 4, 2011.

⁴ The Administrative Record is attached to the United States Postal Service Notice of Filing, October 14, 2011 (Administrative Record). The Administrative Record includes, as Item No.47, the Final Determination to Close the Lorraine, New York Post Office and Continue to Provide Service by Rural Route Service (Final Determination).

⁵ United States Postal Service Comments Regarding Appeal, November 23, 2011 (Postal Service Comments).

Petitioners filed a participant statement supporting their Petition. In addition, Bilkey Moore filed a participant statement supporting the petition.⁶ On December 7, 2011, Petitioners Susan Paine and Bilkey Moore filed a reply brief.⁷

III. BACKGROUND

The Lorraine post office provides retail postal services and service to 72 post office box customers and 154 delivery customers. Final Determination at 2. The Lorraine post office, an EAS-11 level facility, has retail access hours of 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:45 p.m., Monday through Friday, and 9:00 a.m. to 11:45 a.m. on Saturday. *Id.* Lobby access hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 12:00 p.m. on Saturday.

The postmaster position became vacant on October 15, 2006, when the Lorraine postmaster retired. *Id.* A non-career officer-in-charge (OIC) was installed to operate the post office. *Id.* at 2. Retail transactions average eight transactions daily (8 minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$16,328 in FY 2008; \$15,275 in FY 2009; and \$15,988 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$40,491 annually. *Id.* at 7.

After the closure, retail services will be provided by the Adams post office located approximately 7 miles away.⁸ Delivery service will be provided by rural carrier through the Adams post office. The Adams post office is an EAS-18 level office, with retail hours of 8:30 a.m. to 1:00 p.m. and 2:00 p.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 11:00 a.m. on Saturday. *Id.* Eighty-seven post office boxes are available.

⁶ Participant Statement received from Susan and Dean Paine on November 2, 2011 (Paine Participant Statement); Participant Statement received from Bilkey Moore on November 2, 2011 (Moore Participant Statement).

⁷ Paine & Moore Reply Brief, December 7, 2011 (Joint Reply Brief).

⁸ *Id.* at 8. MapQuest estimates the driving distance between the Lorraine and Adams post offices to be approximately 5.7 miles (8 minutes driving time).

Id. The Postal Service will continue to use the Lorraine name and ZIP Code. *Id.* at 6, Concern No. 3.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Lorraine post office. Petitioners are concerned about having to travel to the Adams post office and support the proposed alternatives presented by customer letters, which, they argue, were not addressed by the Postal Service. See Petition at 3; Joint Reply Brief at 4. Petitioners also expressed concern that Postal Service failed to consider the impact on the community especially given that the Lorraine post office is the only indoor casual meeting place in the community. Paine Petitioner Statement at 1. They also assert that the postmaster position was vacant for 6 years because the Postal Service did not fill it and take issue with the Postal Service's cost and cost savings calculations. Paine Petitioner Statement at 2; Joint Reply Brief at 3. Petitioner Moore states that the information provided in connection with the closing was misleading and mismanaged. Moore Participant Statement at 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Lorraine post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the impact on postal services, (2) the impact on the Lorraine community, and (3) the economic savings expected to result from discontinuing the Lorraine post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Lorraine post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Lorraine post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low and generally decreasing office revenue;

- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- low projected population, residential, commercial or business growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Lorraine community when the Final Determination is implemented. *Id.*

The Postal Service asserts that carrier service can provide many functions simultaneously with the delivery of mail that will prevent any need to go to a post office for transactions. In addition, the Postal Service notes that several convenient options can also save a customer a trip to the post office including Stamps-by-Mail and Money Order Application forms. *Id.* at 7. In response to Petitioners' proposal to reduce window hours at the Lorraine post office instead of closing the Lorraine post office, the Postal Service states it looked at other opportunities and concluded that rural carrier service is more cost-effective than maintaining the Lorraine post office.

In response to customers' concerns about security and maintenance of rural mail boxes, the Postal Service noted that rural service can be provided to cluster box units (CBUs) rather than to regular rural boxes.

The Postal Service concludes it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Lorraine community, economic savings, and effect on postal employees. *Id.* at 18.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record

that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On April 16, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Lorraine post office. Final Determination at 2. A total of 226 questionnaires were distributed and 74 were returned. On April 27, 2011, the Postal Service held a community meeting at the Lorraine United Methodist Church to address customer concerns. Twenty-seven customers attended. *Id.*

The Postal Service posted the proposal to close the Lorraine post office with an invitation for comments at the Lorraine and Adams post offices from May 6, 2011 through July 7, 2011. *Id.* The Final Determination was posted at the same two post

offices from August 23, 2011 through September 24, 2011. Administrative Record, Item 48.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Lorraine, New York is an unincorporated community located in Jefferson County, New York. Administrative Record, Item No. 16. The community is administered politically by the Town of Lorraine. *Id.* Police protection is provided by the Jefferson County Sheriff's Department. Fire protection is provided by the Lorraine Volunteer Fire Department. The community is comprised of retirees, farmers, commuters and others who reside in Lorraine but travel elsewhere for supplies and services. Postal Service Comments at 10.

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Lorraine community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Lorraine post office, customers raised concerns regarding the effect of the closure on the community.

The Postal Service addresses the Petitioners' concern that the post office plays an important role in the community and states the community identify will be preserved through the continuing use of the Lorraine name and ZIP Code. The Postal Service notes that customers will be able to meet at local churches and local residences. In response to Petitioner's allegations that rural post offices are unfairly targeted for closure, the Postal Service contends that post offices are reviewed on a case-by-case

basis for closure or consolidation and that numerous urban facilities are also being considered for closure. Postal Service Comments at 11-13.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Lorraine postmaster retired on October 15, 2006 and that an OIC has operated the Lorraine post office since then. *Id.* at 18; Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected. Postal Service Comments at 18; see *also* Final Determination at 7.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Lorraine post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Lorraine post office customers. Postal Service Comments at 5. It asserts that customers of the closed Lorraine post office may obtain retail services at the Adams post office located 7 miles away. Final Determination at 8. Delivery service will be provided by rural carrier through the Adams post office. *Id.* at 2. The Lorraine post office box customers may obtain Post Office Box Service at the Adams post office, which has eighty-seven boxes available. *Id.* Contrary to Petitioners' statement, the Postal Service states there is no requirement to provide postal services which requires a customer to travel more than 8 miles to a post office.

For customers choosing not to travel to the Adams post office, the Postal Service explains that retail services will be available from the carrier. *Id.* at 4, Concern 13. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* In addition, the Postal Service notes that customers may use Stamps-by-Mail, an option that is available regardless of access to internet or cellular service. The Postal Service also

notes that rural route services may be provided to CBUs. Postal Service Comments at 9. Further, it indicates that service to CBUs, parcel lockers, and individual locks on rural boxes should resolve any security concerns customers may have. *Id.*

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$40,491. Final Determination at 7. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$4,800) minus the cost of replacement service (\$8,588). *Id.*

Petitioners propose that savings could be obtained by opening the Lorraine window services only three days a week for limited hours rather than closing the Lorraine post office. Petitioners suggest this compromise would accomplish savings and still allow the Lorraine post office to remain open. The Postal Service responds that it has conducted a financial analysis and has considered options suggested by Petitioners. The Postal Service states, however, that it has determined that carrier service, coupled with retail services at the Adams post office, is a reasonable solution that will yield economic savings. Postal Service Comments at 16.

Petitioners also criticize the proposed closing of the Lorraine post office since customers from Lorraine will have to drive additional distances to the Adams post office which will increase their cost of doing business with the Postal Service. The Postal Service responds to these concerns by noting that services can be obtained from the carrier and from other programs.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Lorraine post office postmaster retired on October 15, 2006. Final Determination at 6. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 10; and Docket No.

A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 13. Furthermore, notwithstanding that the Lorraine post office has been staffed by an OIC for over 5 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

Section 101(b). Section 101(b) prohibits closing any small post office solely for operating at a deficit. Petitioner Moore alleges that the Postal Service is closing the Lorraine post office solely for economic reasons. Moore Petition at 4.

To be sure, economics plays a role in the Postal Service's decision. However, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Lorraine post office (revenues declining and averaging only eight retail transactions per day), the Postal Service took into account other factors such as the postmaster vacancy, the minimal impact on the community, and expected financial savings. In addition, it considered alternate delivery and retail options available to customers. Final Determination at 8; see *also* Postal Service Comments at 17.

The Postal Service did not violate the prohibition in section 101(b) on closing the Lorraine post office solely for operating at a deficit.

VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Lorraine post office is affirmed.

It is ordered:

The Postal Service's determination to close the Lorraine, New York post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Lorraine post office has been operated by a noncareer officer-in-charge (OIC) since the former postmaster retired on October 15, 2006. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time position.

There are inherent and blatant contradictions in the record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose

post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium.

The citizens of Lorraine, New York and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since October 2006, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Postal Service's decision to discontinue operations at the Lorraine post office is unsupported by evidence on the record and thus, should be remanded.

Nanci E. Langley